IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTIETH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

-

WRIT PETITION NO : 33729 of 1997

Between:

Ghouse Mohammad, S/o. Peer Mohammad,
R/o. Bichkonda Village & Mandal, Nizamabad District.

..... PETITIONER

AND

1 APSEB through its Member Secretary,
at Vidyuth Soudha, Somajiguda, Hyderabad.
2 The Chief Engineer, APSEB,
Nizamabad Zone at Nizamabad.
3 The Superintending Engineer, (Elecl) Operation,
APSEB, Nizamabad.
4 The Addl. Asst. Engineer/DPE, APSEB,
Nizamabad.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ of Mandamus or any other appropriate Writ or Writs, order or direction, declaring and setting aside the order dt. 27-10-1997 issued in Order No.SE/OP/NZB/Comml./F.BB-156/96-97/D.No.753-C3/97 on the file of the 3rd Respondent, as illegal, arbitrary without jurisdiction, and contrary to section 26 of Indian Electricity Act 1910 and condition 39 off APSEB terms and conditions of supply Act 1948.

Counsel for the Petitioner: Mr.K.Raghuveer Reddy

Counsel for the Respondents: Smt. M.Vinobha Devi.

This Court delivered the following:

ORDER:

The petitioner files this Writ Petition, inter alia, seeking to assail the impugned order dated 27.10.1997 of the third respondent as illegal, arbitrary and contrary to Section 26 of the Indian Electricity Act, 1910 and condition 39 of the A.P.S.E.B. terms and conditions of Supply Act, 1948.

Though several contentions sought to be urged by both sides, however, having regard to the principles laid down by the Full Bench of this Court reported in KLAYMAN PRUCELAINS LTD. VS. SUPERINTENDING ENGINEER, wherein interpreting the very same provision viz. Section 26(6) of the Indian Electricity Act, it was held that any remedy for the allegations of the defects in the meter, lies with the Chief Electrical Inspector. Subsequently, considering the said decision and also the amended provisions by way of A.P. Amendment Act, wherein Section 49-I was introduced to the main Act, it was held that in respect of such meter defects, the remedy of the party aggrieved as against the assessment and the amount of energy consumption, lies with the Special Court constituted under the said amendment.

Having regard to the same, it is not open for this court to go into any other questions. Accordingly, the Writ Petition is dismissed with liberty to the petitioner to approach the Special Court by way of appeal within a period of four weeks from today. On such filing of appeal, the Special Court shall dispose of the appeal on merits in accordance with law after giving an opportunity and notice to both sides. No costs.

20.01.2005 (B.Prakash Rao, J.)

DRK

1 The Member Secretary, APSEB,
at Vidyuth Soudha, Somajiguda, Hyderabad.
2 The Chief Engineer, APSEB,
Nizamabad Zone at Nizamabad.
3 The Superintending Engineer, (Elecl) Operation,
APSEB, Nizamabad.
4 The Addl. Asst. Engineer/DPE, APSEB,
Nizamabad.

5 Two CD copies

THE HON'BLE MR JUSTICE B.PRAKASH RAO

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20.01.2005